IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2832 OF 2007

1. Darshana Kamalakar Chavan & Anr. .. Petitioners.

V/s.

1. State of Maharashtra) .. Respondents.
through its Secretary, Tribal)
Development Department,)
Mantralaya, Mumbai -32.)
and others.

Mr.R.K.Mendadkar for the Petitioners.

Mr.C.R.Sonawane, AGP for the Respondents.

CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.

DATED : 04th MAY, 2007.

P.C. :- (Per R.M.SAVANT,J.)

. Rule. Rule with the consent of the parties made returnable forthwith.

2. By this petition filed under Article 226 of the Constitution of India, the petitioners impugn the order dated 8th February, 2007 passed by the Scheduled Tribe Certificate Scrutiny Committee, Kokan Division, Thane; invalidating their claim as belonging to Mahadeo Koli Scheduled Tribe. Such of the facts which are necessary

to be cited are stated thus :

3. The petitioners were granted caste certificate by the competent authority having jurisdiction as belonging to Mahadeo Koli Scheduled Tribe. Since the petitioners were desirous of seeking public employment under the reserved category of Scheduled Tribe, they moved the Respondent No.2 Committee for verification of their caste certificates. The petitioners produced various documents in support of their caste claim. However, on consideration of the said documents, the petitioners' claim as belonging to Mahadeo Koli Scheduled Tribe was invalidated. Aggrieved by the said invalidation, the petitioners filed writ petition No. 4509 of 2006, challenging the said order of the committee, the said petition came to be allowed by this court by an order dated 19.08.2006 and the matter was remitted back to the committee with a specific direction that the committee shall deal with the all the documents properly and pass a reasoned order. The petitioners pursuant to the said order passed by this court, appeared before the committee. The father of the petitioners and their Advocate also appeared on 5.12.2006. The petitioners produced certain documents; one of which was letter dated 28.6.2005 issued by the Headmaster of J.S.Rungtha High School, Nasik;

evidencing change of caste from Koli to Mahadeo Koli in respect of the uncle of the petitioners. The petitioners were thereafter, called for hearing on 11.1.2007 by the committee. Since the Advocate of the petitioners was held up in this court, he, therefore, sent a letter to the committee, seeking adjournment. The said letter dated 11.1.2007 was duly received by the committee before the commencement of the hearing. The Advocate for the petitioners thereafter, vide his letter dated 24.1.2007 sought to produce certain documents in support of the petitioners claim. However, the committee did not accede to the request of the Advocate for the petitioners for adjournment or for production of documents which he sought vide his said letter dated 24.1.2007 and proceeded to pass an order on 8.2.2007, invalidating the caste claim of the petitioners as belonging to Mahadeo Koli. The said order was received by the petitioners on 3.3.2007 which has been impugned in the present petition.

4. We have heard the learned counsel for the respective parties. The learned counsel for the petitioners vehemently submitted that the said order has been passed by the committee without giving opportunity to the petitioners to be represented before the committee and also to produce documents which they had

sought vide their Advocate's letter. The learned counsel for the petitioner, therefore, submitted that it is fit case wherein the matter should be remitted back to the committee for a decision afresh after giving an opportunity to the petitioners to be represented by their advocate and also to produce documents as sought vide letter dated 24.1.2007.

5. On the other hand, the learned AGP supports the order of the committee and contends that inspite of opportunities given to the petitioners their Advocate failed to appear before the committee on 11.1.2007 and therefore, the committee had to proceed with the hearing.

6. We have bestowed our anxious consideration to the rival contentions. In our view, in a matter involving a caste claim which would have a vital bearing on the future of the petitioners, it is just necessary that a proper opportunity is given to the parties. In the instant case, the learned Advocate for the petitioners had vide letter dated 11.1.2007 showed his inability to appear on the said date, as he was busy in this court and therefore, sought adjournment so also vide letter dated 24.1.2007, the learned Advocate has sought to produce certain certificates dated 22.2.2007

issued by the President of Adi Janata Vastigriha, which according to the petitioners would substantiate their case as belonging to Mahadeo Koli. The committee in our opinion erred in proceeding with the matter in the absence of the Advocate for the petitioners who was representing them in the said proceedings and also not giving an opportunity to the petitioners to produce the documents mentioned in the letter of the Advocate dated 24.1.2007.

7. In this view of the matter, the petition would have to be allowed and the order dated 8.2.2007 would have to be set aside and the matter would have to be remitted back to the Committee to be decided afresh by giving an opportunity to the petitioners to produce documents as sought for by their Advocate's letter dated 24.1.2007. On such remand, the caste claim of the petitioners would be decided by the committee within three months from date.

8. Rule is accordingly made absolute in the aforesaid terms with no order as to costs.

(F.I.REBELLO,J.)

(R.M.SAVANT,J.)

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